

[No report.]

FEBRUARY 2, 1853.

Read twice, and committed to a Committee of the Whole House on the state of the Union.

Mr. RICHARDSON, from the Committee on the Territories, reported the following bill:

A BILL

To organize the Territory of Nebraska.

1 *Be it enacted by the Senate and House of Representatives*
2 *of the United States of America in Congress assembled, That*
3 from and after the passage of this act all that part of the terri-
4 tory of the United States included between the summit of the
5 Rocky mountains on the west, the States of Missouri and
6 Iowa on the east, the forty-third degree of north latitude on
7 the north, and the Territory of New Mexico and the parallel of
8 thirty-six degrees thirty minutes north latitude on the south,
9 shall be organized into and constitute a temporary government
10 by the name of the Territory of Nebraska: *Provided, That*
11 nothing in this act contained shall be construed to impair the
12 rights of person or property now pertaining to the Indians in
13 said Territory, so long as such rights shall remain unextin-
14 guished by treaty between the United States and such Indians,

15 or to include any territory which, by treaty with any Indian
 16 tribe, is not, without the consent of said tribe, to be included
 17 within the territorial limits or jurisdiction of any State or Ter-
 18 ritory, until said tribe shall signify their assent to the Presi-
 19 dent of the United States to be included within the said Terri-
 20 tory of Nebraska, or to affect the authority of the government
 21 of the United States to make any regulation respecting such
 22 Indians, their lands, property, or other rights, by treaty, law,
 23 or otherwise, which it would have been competent to the
 24 government to make if this act had never passed: *And pro-*
 25 *vided, further,* That nothing in this act contained shall be con-
 26 strued to inhibit the government of the United States from
 27 dividing said Territory into two or more Territories, in such
 28 manner and at such times as Congress shall deem convenient
 29 and proper, or from attaching any portion of said territory to
 30 any other State or Territory of the United States.

1 **SEC. 2.** *And be it further enacted,* That the executive
 2 power and authority in and over said Territory of Nebraska
 3 shall be vested in a governor, who shall hold his office for four
 4 years, and until his successor shall be appointed and qualified,
 5 unless sooner removed by the President of the United States.
 6 The governor shall reside within said Territory, shall be com-
 7 mander-in-chief of the militia thereof, shall perform the duties
 8 and receive the emoluments of superintendent of Indian affairs,
 9 and shall approve of all laws passed by the legislative assembly

10 before they shall take effect; he may grant pardons and re-
11 spites for offences against the laws of said Territory, and re-
12 pries for offences against the laws of the United States until
13 the decision of the President can be made known thereon; he
14 shall commission all officers who shall be appointed to office
15 under the laws of the said Territory, where, by law, such
16 commissions shall be required, and shall take care that the
17 laws be faithfully executed.

1 **SEC. 3.** *And be it further enacted,* That there shall be
2 a secretary of said Territory, who shall reside therein, and
3 hold his office for five years, unless sooner removed by the
4 President of the United States; he shall record and preserve
5 all the laws and proceedings of the legislative assembly herein-
6 after constituted, and all the acts and proceedings of the gov-
7 ernor in his executive department; he shall transmit one copy
8 of the laws and journals of the legislative assembly within
9 thirty days after the end of each session, and one copy of the
10 executive proceedings and official correspondence, semi-annually,
11 on the first days of January and July, in each year, to the
12 President of the United States, and two copies of the laws to
13 the President of the Senate and to the Speaker of the House
14 of Representatives, for the use of Congress. And in case of
15 the death, removal, resignation, or absence of the governor
16 from the Territory, the secretary shall be, and he is hereby,
17 authorized and required to execute and perform all the powers

18 and duties of the governor during such vacancy or absence, or
19 until another governor shall be duly appointed and qualified to
20 fill such vacancy.

1 SEC. 4. *And be it further enacted,* That the legislative
2 power and authority of said Territory shall be vested in the
3 governor and a legislative assembly. The legislative assembly
4 shall consist of a council and house of representatives. The
5 council shall consist of nine members, having the qualifications
6 of voters as hereinafter prescribed, whose term of service shall
7 continue two years. The house of representatives shall, at its
8 first session, consist of eighteen members, possessing the same
9 qualifications as prescribed for members of the council, and
10 whose term of service shall continue one year. The num-
11 ber of representatives may be increased by the legislative as-
12 sembly, from time to time, in proportion to the increase of
13 qualified voters: *Provided,* That the whole number shall
14 never exceed thirty. An apportionment shall be made, as
15 nearly equal as practicable, among the several counties or dis-
16 tricts, for the election of the council and representatives, giv-
17 ing to each section of the Territory representation in the ratio
18 of its qualified voters, as nearly as may be. And the mem-
19 bers of the council and of the house of representatives shall
20 reside in and be inhabitants of the district or county, or coun-
21 ties, for which they may be elected respectively. Previous to
22 the first election, the governor shall cause a census or enumera-

tion of the inhabitants and qualified voters of the several counties and districts of the Territory to be taken by such persons, and in such mode, as the governor shall designate and appoint; and the persons so appointed shall receive a reasonable compensation therefor; and the first election shall be held at such time and places, and be conducted in such manner, both as to the persons who shall superintend such election and the returns thereof, as the governor shall appoint and direct; and he shall, at the same time, declare the number of members of the council and house of representatives to which each of the counties or districts shall be entitled under this act. The persons having the highest number of legal votes in each of said council districts for members of the council shall be declared by the governor to be duly elected to the council; and the persons having the highest number of legal votes for the house of representatives shall be declared by the governor to be duly elected members of said house: *Provided, That*, in case two or more persons voted for shall have an equal number of votes, and in case a vacancy shall otherwise occur in either branch of the legislative assembly, the governor shall order a new election, and the persons thus elected to the legislative assembly shall meet at such place, and on such day, as the governor shall appoint; but, thereafter, the time, place, and manner of holding and conducting all elections by the people, and the apportioning the representation in the several counties or districts to

48 the council and house of representatives, according to the
 49 number of qualified voters, shall be prescribed by law, as well
 50 as the day of the commencement of the regular sessions of the
 51 legislative assembly : *Provided*, That no session in any one
 52 year shall exceed the term of sixty days.

1 SEC. 5. *And be it further enacted*, That every free white
 2 male inhabitant above the age of twenty-one years, who shall
 3 have been a resident of said Territory at the time of the pas-
 4 sage of this act, and shall possess the qualifications hereinafter
 5 prescribed, shall be entitled to vote at the first election, and
 6 shall be eligible to any office within the said Territory ; but
 7 the qualifications of voters and of holding office, at all subse-
 8 quent elections, shall be such as shall be prescribed by the
 9 legislative assembly : *Provided*, That the right of suffrage
 10 and of holding office shall be exercised only by citizens of the
 11 United States, and those who shall have declared, on oath, their
 12 intention to become such, and shall have taken an oath to sup-
 13 port the constitution of the United States and the provisions of
 14 this act : *And provided further*, That no officer, soldier,
 15 seaman, or marine, or other person in the army or navy of the
 16 United States, or attached to troops in the service of the Uni-
 17 ted States, shall be allowed to vote or hold office in said Ter-
 18 ritory, by reason of being on service therein for six months,
 19 unless said Territory is and has been for that period other-
 20 wise his permanent domicil, residence, habitation, and home.

1 SEC. 6. *And be it further enacted*, That the legislative
2 power of the Territory shall extend to all rightful subjects of
3 legislation consistent with the constitution and laws of the Uni-
4 ted States; but no law shall be passed interfering with the pri-
5 mary disposal of the soil; no tax shall be imposed upon the
6 property of the United States; nor shall the lands or other
7 property of non-residents be taxed higher than the lands or
8 other property of residents. All the laws passed by the legis-
9 lative assembly and governor shall be submitted to the Con-
10 gress of the United States, and if disapproved, shall be null,
11 and of no effect.

1 SEC. 7. *And be it further enacted*, That all township,
2 district, and county officers, not herein otherwise provided for,
3 shall be appointed or elected, as the case may be, in such
4 manner as shall be provided by the governor and legislative
5 assembly of the Territory of Nebraska.

1 SEC. 8. *And be it further enacted*, That no member of
2 the legislative assembly shall hold, or be appointed to, any
3 office which shall have been created, or the salary or emolu-
4 ments of which shall have been increased, while he was a
5 member, during the term for which he was elected, and for
6 one year after the expiration of such term; but this restriction
7 shall not be applicable to members of the first legislative as-
8 sembly; and no person holding a commission or appointment
9 under the United States, except postmasters, shall be a mem-

ber of the legislative assembly, or shall hold any office under the government of said Territory.

SEC. 9. *And be it further enacted,* That the judicial power of said Territory shall be vested in a supreme court, district courts, probate courts, and in justices of the peace. The supreme court shall consist of a chief justice and two associate justices, any two of whom shall constitute a quorum, and who shall hold a term at the seat of government of said Territory annually, and they shall hold their offices during the period of four years, and until their successors shall be appointed and qualified. The said Territory shall be divided into three judicial districts, and a district court shall be held in each of said districts by one of the justices of the supreme court, at such times and places as may be prescribed by law; and the said judges shall, after their appointments, respectively, reside in the districts which shall be assigned them. The jurisdiction of the several courts herein provided for, both appellate and original, and that of the probate courts and of justices of the peace, shall be as limited by law: *Provided,* That justices of the peace shall not have jurisdiction of any matter in controversy when the title or boundaries of land may be in dispute, or where the debt or sum claimed shall exceed one hundred dollars; and the said supreme and district courts, respectively, shall possess chancery, as well as common law, jurisdiction. Each district court, or the judge thereof,

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24 shall appoint its clerk, who shall also be the register in chan-
25 cery, and shall keep his office at the place where the court
26 may be held. Writs of error, bills of exception, and appeals,
27 shall be allowed in all cases from the final decisions of said dis-
28 trict courts to the supreme court, under such regulations as
29 may be prescribed by law; but in no case removed to the su-
30 preme court shall trial by jury be allowed in said court. The
31 supreme court, or the justices thereof, shall appoint its own
32 clerk, and every clerk shall hold his office at the pleasure of
33 the court for which he shall have been appointed. Writs of
34 error and appeals from the final decisions of said supreme court
35 shall be allowed, and may be taken to the Supreme Court of
36 the United States, in the same manner and under the same
37 regulations as from the circuit courts of the United States,
38 where the value of the property or the amount in controversy,
39 to be ascertained by the oath or affirmation of either party, or
40 other competent witness, shall exceed two thousand dollars;
41 and each of the said district courts shall have and exercise the
42 same jurisdiction in all cases arising under the constitution and
43 laws of the United States and the laws of said Territory as is
44 vested in the circuit and district courts of the United States.
45 Writs of error and appeal in all such cases shall be made to the
46 supreme court of said Territory, the same as in other cases.
47 The said clerk shall receive, in all such cases, the same fees

48 which the clerks of the district courts of Utah Territory now
49 receive for similar services.

1 SEC. 10. *And be it further enacted*, That there shall
2 be appointed an attorney for said Territory, who shall con-
3 tinue in office for four years, and until his successor shall be
4 appointed and qualified, unless sooner removed by the Presi-
5 dent, and who shall receive the same fees and salary as the
6 attorney of the United States for the present Territory of
7 Utah. There shall also be a marshal for the Territory ap-
8 pointed, who shall hold his office for four years, and until his
9 successor shall be appointed and qualified, unless sooner re-
10 moved by the President, and who shall execute all processes
11 issuing from the said courts, when exercising their jurisdiction
12 as circuit and district courts of the United States ; he shall
13 perform the duties, be subject to the same regulation and
14 penalties, and be entitled to the same fees, as the marshal of
15 the district court of the United States for the present Territory
16 of Utah ; and shall, in addition, be paid two hundred dollars
17 annually as a compensation for extra services.

1 SEC. 11. *And be it further enacted*, That the governor,
2 secretary, chief justice and associate justices, attorney, and
3 marshal, shall be nominated, and by and with the advice and
4 consent of the Senate, appointed by the President of the Uni-
5 ted States. The governor and secretary to be appointed as
6 aforesaid shall, before they act as such, respectively, take an

7 oath or affirmation, before the district judge, or some justice
8 of the peace in the limits of said Territory, duly authorized
9 to administer oaths and affirmations by the laws now in force
10 therein, or before the chief justice or some associate justice of
11 the Supreme Court of the United States, to support the con-
12 stitution of the United States, and faithfully to discharge the
13 duties of their respective offices; which said oaths, when so
14 taken, shall be certified by the person by whom the same shall
15 have been taken, and such certificates shall be received and
16 recorded by the said secretary among the executive proceed-
17 ings, and the chief justice and associate justices, and all other
18 civil officers in said Territory, before they act as such, shall
19 take a like oath or affirmation, before the said governor or
20 secretary, or some judge or justice of the peace of the Terri-
21 tory, who may be duly commissioned and qualified, which said
22 oath or affirmation shall be certified and transmitted, by the
23 person taking the same, to the secretary, to be by him record-
24 ed as aforesaid; and afterwards, the like oath or affirmation
25 shall be taken, certified, and recorded, in such manner and
26 form as may be prescribed by law. The governor shall re-
27 ceive an annual salary of fifteen hundred dollars as governor,
28 and fifteen hundred dollars as superintendent of Indian affairs.
29 The chief justice and associate justices shall each receive an
30 annual salary of two thousand dollars. The secretary shall
31 receive an annual salary of fifteen hundred dollars. The said

32 salaries shall be paid quarter-yearly, from the dates of the
33 respective appointments, at the treasury of the United States ;
34 but no such payment shall be made until said officers shall have
35 entered upon the duties of their respective appointments.
36 The members of the legislative assembly shall be entitled to
37 receive three dollars each per day during their attendance at
38 the sessions thereof, and three dollars each for every twenty
39 miles' travel in going to and returning from the said sessions,
40 estimated according to the nearest usually travelled route.
41 And a chief clerk, one assistant clerk, a sergeant-at-arms, and
42 doorkeeper, may be chosen for each house ; and the chief
43 clerk shall receive five dollars per day, and the said other offi-
44 cers three dollars per day, during the session of the legislative
45 assembly ; but no other officers shall be paid by the United
46 States : *Provided*, That there shall be but one session of the
47 legislature annually, unless, on an extraordinary occasion, the
48 governor shall think proper to call the legislature together.
49 There shall be appropriated, annually, the sum of fifteen hun-
50 dred dollars, to be expended by the governor, to defray the
51 contingent expenses of the Territory, including the salary of a
52 clerk of the executive department ; and there shall also be ap-
53 propriated, annually, a sufficient sum, to be expended by the
54 secretary of the Territory, and upon an estimate to be made
55 by the Secretary of the Treasury of the United States, to de-
56 fray the expenses of the legislative assembly, the printing of

57 the laws, and other incidental expenses ; and the governor and
58 secretary of the Territory shall, in the disbursement of all
59 moneys intrusted to them, be governed solely by the instruc-
60 tions of the Secretary of the Treasury of the United States,
61 and shall semi-annually account to the said Secretary for the
62 manner in which the aforesaid moneys shall have been ex-
63 pended ; and no expenditure shall be made by said legislative
64 assembly for objects not specially authorized by the acts of
65 Congress making the appropriations, nor beyond the sums thus
66 appropriated for such objects.

1 SEC. 12. *And be it further enacted,* That the legislative
2 assembly of the Territory of Nebraska shall hold its first ses-
3 sion at such time and place in said Territory as the governor
4 thereof shall appoint and direct ; and at said first session, or as
5 soon thereafter as they shall deem expedient, the governor and
6 legislative assembly shall proceed to locate and establish the
7 seat of government for said Territory at such place as they
8 may deem eligible ; which place, however, shall thereafter be
9 subject to be changed by the said governor and legislative as-
10 sembly. And the sum of five thousand dollars, out of any
11 money in the treasury not otherwise appropriated, is hereby
12 appropriated and granted to said Territory of Nebraska, to be
13 there applied, by the governor, to the erection of suitable
14 buildings at the seat of government.

1 SEC. 13. *And be it further enacted,* That a delegate
 2 to the House of Representatives of the United States, to serve
 3 for the term of two years, who shall be a citizen of the United
 4 States, may be elected by the voters qualified to elect members
 5 of the legislative assembly, who shall be entitled to the same
 6 rights and privileges as are exercised and enjoyed by the dele-
 7 gates from the several other Territories of the United States to
 8 the said House of Representatives, but the delegate first elect-
 9 ed shall hold his seat only during the term of the Congress to
 10 which he shall be elected. The first election shall be held at
 11 such time and places, and be conducted in such manner, as the
 12 governor shall appoint and direct; and at all subsequent elec-
 13 tions, the times, places, and manner of holding the elections
 14 shall be prescribed by law. The person having the greatest
 15 number of votes shall be declared by the governor to be duly
 16 elected, and a certificate thereof shall be given accordingly.

1 SEC. 14. *And be it further enacted,* That the sum of
 2 five thousand dollars be, and the same is hereby, appropriated,
 3 out of any moneys in the treasury not otherwise appropriated,
 4 to be expended, by and under the direction of the said gov-
 5 ernor of the Territory of Nebraska, in the purchase of a
 6 library, to be kept at the seat of government for the use of
 7 the governor, legislative assembly, judges of the supreme
 8 court, secretary, marshal, and attorney of said Territory, and

9 such other persons and under such regulations as shall be pre-
10 scribed by law.

1 SEC. 15. *And be it further enacted*, That when the lands
2 in the said Territory shall be surveyed under the direction of
3 the government of the United States, preparatory to bringing
4 the same into market, sections numbered sixteen and thirty-
5 six in each township in said Territory shall be, and the same
6 are hereby, reserved for the purpose of being applied to schools
7 in said Territory, and in the States and Territories hereafter
8 to be erected out of the same.

1 SEC. 16. *And be it further enacted*, That, until other-
2 wise provided by law, the governor of said Territory may
3 define the judicial districts of said Territory, and assign the
4 judges who may be appointed for said Territory to the several
5 districts, and also appoint the times and places for holding
6 courts in the several counties or subdivisions in each of said
7 judicial districts by proclamation to be issued by him; but the
8 legislative assembly, at their first or any subsequent session,
9 may organize, alter, or modify such judicial districts, and as-
10 sign the judges, and alter the times and places of holding the
11 courts, as to them shall seem proper and convenient.

1 SEC. 17. *And be it further enacted*, That all officers to
2 be appointed by the President, by and with the advice and
3 consent of the Senate, for the Territory of Nebraska, who, by
4 virtue of the provisions of any law now existing, or which

5 may be enacted during the present Congress, are required to
6 give security for moneys that may be intrusted with them for
7 disbursement, shall give such security at such time and place,
8 and in such manner, as the Secretary of the Treasury may pre-
9 scribe.

1 SEC. 18. *And be it further enacted,* That the President
2 of the United States be, and he hereby is, authorized to enter
3 into negotiation with the Indian tribes of the said Territory of
4 Nebraska, for the purpose of securing the assent of said tribes
5 to the settlement of the citizens of the United States upon the
6 lands claimed by said Indians, and for the purpose of extin-
7 guishing the title of said Indian tribes in whole or in part to
8 said lands; and that, for the purpose of carrying into effect the
9 provisions of this section, the sum of fifty thousand dollars is
10 hereby appropriated out of any moneys in the treasury not
11 otherwise appropriated.